

ALBANY COMMON COUNCIL MINUTES OF A REGULAR MEETING

Wednesday, February 11, 2015

The Common Council was convened at 7:00 p.m. and was called to order by President McLaughlin.

The roll being called, the following answered to their names: Council Members Applys, Bailey, Commisso, Conti, Doesschate, Fahey, Flynn, Golby, Herring, Igoe, Kimbrough, Krasher, O'Brien and Robinson.

Also present was the following staff: Nala Woodard, Barbara Samel, Patrick Jordan and Cashawna Parker.

Council Member Herring led with the Pledge of Allegiance.

PUBLIC COMMENT

1. Bob Powers, President of Albany Firefighters Union, 39 Quail Street, Albany, NY (Ladder #1 savings status/firefighters exam);

There being no further speakers, the President declared the public comment period closed.

CONSIDERATION OF LOCAL LAWS

Council Member Commisso introduced LOCAL LAW C-2015, which was referred to the Finance, Taxation and Assessment Committee.

A LOCAL LAW AMENDING ARTICLE 4 (LEGISLATIVE BRANCH) OF THE CHARTER OF THE CITY OF ALBANY IN RELATION TO APPROVAL OF CONTRACTS

BE IT ENACTED by the Common Council of the City of Albany as follows:

Section 1. Article 4 of the Charter of the City of Albany is hereby amended by adding a new Section 409 to read as follows:

Section 409. Approval of Contracts.

The Common Council shall approve all contracts with a value of over \$10,000 by majority vote prior to execution by the Mayor as provided by the Second Class Cities Law. This provision shall not apply to contracts awarded by the Board of Contract and Supply under the competitive bidding laws as set forth in Article 5-A of the General Municipal Law, Article 8 of the Second Class Cities Law, and Part 10 of Chapter 42 of the City of Albany Code.

Section 2. This local law shall take effect upon final passage, public hearing and approval by the duly qualified voters of the City of Albany in the manner prescribed by law at the general election following adoption by the Common Council.

Council Member O'Brien introduced LOCAL LAW D-2015 which was referred to the General Services, Health and Environment Committee.

**A LOCAL LAW AMENDING THE CODE OF THE CITY OF ALBANY REGARDING
FLOOD DAMAGE PREVENTION**

The City of Albany, in Common Council convened, does hereby ordain and enact:

Section 1. Article XVIII of Chapter 375 of the Code of the City of Albany is hereby repealed in its entirety and a new Article XVIII of Chapter 375 of the Code of the City of Albany is hereby added to read as follows:

**Article XVIII
Flood Damage Prevention**

§ 375-143 FINDINGS.

The Common Council of the City of Albany, Albany County finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the City of Albany, Albany County and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

§ 375-144 STATEMENT OF PURPOSE.

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

§ 375-145 OBJECTIVES.

The objectives of this local law are:

- (1) to protect human life and health;

- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 375-146 DEFINITIONS.

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this local law or a request for a variance.

"Area of shallow flooding" means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain. For purposes of this local law, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Building" see "Structure"

"Cellar" has the same meaning as "Basement".

"Crawl Space" means an enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

"Critical Facilities" means:

- (1) Structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic and/or water-reactive materials;
- (2) Hospitals, nursing homes, and housing likely to contain occupants who may not be sufficiently mobile to avoid death or injury during a flood;
- (3) Police stations, fire stations, vehicle and equipment storage facilities, and emergency operations centers that are needed for flood response activities before, during, and after a flood; and
- (4) Public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during, and after a flood.

"Cumulative Substantial Improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure that equals or exceeds 50 percent of the market value of the structure at the time of the improvement or repair when counted cumulatively for 10 years.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"Federal Emergency Management Agency" means the Federal agency that administers the National Flood Insurance Program.

"Flood" or **"Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters;
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or

an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFM)" means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood- related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" see "flood elevation study".

"Floodplain" or "Flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

"Floodproofing" means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway" - has the same meaning as "Regulatory Floodway".

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Historic structure" means any structure that is:

- (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

- (i) by an approved state program as determined by the Secretary of the Interior or
- (ii) directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or employee of an engineering department.

"Lowest floor" means lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this local law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle"

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" - has the same meaning as "Manufactured home".

"New construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

"One hundred year flood" or "100-year flood" has the same meaning as "Base Flood".

"Principally above ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"Recreational vehicle" means a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 375-157.

"Start of construction" means the date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood-related damages sustained by a structure in two separate occasions during a 10-year period for which the cost of repairs at the time of such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) any alteration of a "Historic structure", provided that the alteration will not preclude the structure's continued designation as a "Historic structure".

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

"Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations.

§ 375-147 GENERAL PROVISIONS.

A. LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazard within the jurisdiction of the City of Albany, Albany County.

B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the City of Albany, Community Number 360001, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

(1) Flood Insurance Rate Map Panel Numbers:

360001C0157D, 360001C0159D, 360001C0176D, 360001C0178D, 360001C0179D, 360001C0183D, 360001C0187D, 360001C0188D, 360001C0189D, 360001C0191D, 360001C0192D, 360001C0193D, 360001C0194D, 360001C0211D, 360001C0213D, 360001C0306D, 360001C0307D;

whose effective date is, March 16, 2015, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.

(2) A scientific and engineering report entitled "Flood Insurance Study, Albany County, New York, All Jurisdictions" dated March 16, 2015.

The above documents shall be considered to be a part of this local law. The Flood Insurance Study and/or maps shall be kept on file with the City Clerk of the City.

§ 375-148 INTERPRETATION AND CONFLICT WITH OTHER LAWS.

This local law includes all revisions to the National Flood Insurance Program through October 27, 1997 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

§ 375-149 SEVERABILITY.

The invalidity of any section or provision of this local law shall not invalidate any other section or provision thereof.

§ 375-150 PENALTIES FOR NON-COMPLIANCE.

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance

shall be considered a separate offense. Nothing herein contained shall prevent the City of Albany, Albany County from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

§ 375-151 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the City of Albany, Albany County, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made there under.

§ 375-152 ADMINISTRATION; DESIGNATION OF THE LOCAL ADMINISTRATOR.

The Commissioner of Buildings and Regulatory Compliance or the equivalent position is hereby appointed Local Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

§ 375-153 THE FLOODPLAIN DEVELOPMENT PERMIT; PURPOSE.

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 375-147(B), without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

§ 375-154 FEES.

All applications for a floodplain development permit shall be accompanied by an application fee of \$ 300. In addition, the applicant shall be responsible for reimbursing the City of Albany for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

§ 375-155 APPLICATION FOR A PERMIT.

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

(1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee

shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.

(2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.

(3) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 375-170, UTILITIES.

(4) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 375-172, NON-RESIDENTIAL STRUCTURES.

(5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 3.2, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.

(6) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.

(7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

§ 375-156 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR; PERMIT APPLICATION REVIEW.

Duties of the Local Administrator shall include, but not be limited to the following.

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

(1) Review all applications for completeness, particularly with the requirements of Section 375-155, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.

(2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 375-164, CONSTRUCTION STANDARDS and, in particular, Section 375-165 SUBDIVISION PROPOSALS.

(3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Sections 375-164 through and including 275-174, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

(4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

§ 375-157 USE OF OTHER FLOOD DATA.

(1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 375-155(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.

(2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.

§ 375-158 ALTERATION OF WATERCOURSES.

(1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Administrator, Region II, Federal Emergency Management Agency.

(2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

§ 375-159 CONSTRUCTION STAGE.

(1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).

(2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

§ 375-160 INSPECTIONS.

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

§ 375-161 STOP WORK ORDERS.

(1) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 375-150 of this local law.

(2) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 375-150 of this local law.

§ 375-162 CERTIFICATE OF COMPLIANCE.

(1) In areas of special flood hazard, as determined by documents enumerated in Section 375-147, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.

(2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.

(3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 375-160, INSPECTIONS, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

§ 375-163 INFORMATION TO BE RETAINED.

The Local Administrator shall retain and make available for inspection, copies of the following:

- (1) Floodplain development permits and certificates of compliance;
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to Section 375-159, and whether or not the structures contain a basement;
- (3) Floodproofing certificates required pursuant to Section 375-159, and whether or not the structures contain a basement;
- (4) Variances issued pursuant to Section 375-175, VARIANCE PROCEDURES; and

(5) Notices required under Section 375-158, ALTERATION OF WATERCOURSES.

§ 375-164 CONSTRUCTION STANDARDS; GENERAL STANDARDS.

Sections 375-165 and 375-166 shall apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 375-147.

§ 375-165 SUBDIVISION PROPOSALS.

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

§ 375-166 ENCROACHMENTS.

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - (i) the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,
 - (ii) the City of Albany, Albany County agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the City of Albany, Albany County for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the City of Albany, Albany County for all costs related to the final map revision.
- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 3.2, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
 - (i) a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,
 - (ii) the City of Albany agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the City of Albany, Albany County for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the City of Albany, Albany County for all costs related to the final map revisions.

(3) Whenever any portion of a floodplain is authorized for development, the volume of space occupied by the authorized fill or structure below the base flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood elevation at or adjacent to the development site. All such excavations shall be constructed to drain freely to the watercourse. No area below the waterline of a pond or other body of water can be credited as a compensating excavation.

§ 375-167 STANDARDS FOR ALL STRUCTURES.

Sections 375-168 through and including 375-170 shall apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in 375-147.

§ 375-168 ANCHORING.

New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

§ 375-169 CONSTRUCTION MATERIALS AND METHODS.

(1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.

(2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.

(3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

(i) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

(ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

§ 375-170 UTILITIES.

(1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at least two feet above the base flood elevation or be designed to prevent water from entering and accumulating within the components

during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall also be elevated or designed to prevent water from entering and accumulating within the components unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;

(2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,

(4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

§ 375-171 RESIDENTIAL STRUCTURES; ELEVATION.

The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in Section 375-165, SUBDIVISION PROPOSALS, Section 375-166, ENCROACHMENTS and Section 375-167, STANDARDS FOR ALL STRUCTURES.

(1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.

(2) Within Zone A, when no base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.

(3) Within Zone AO, new construction and substantial improvements shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 375-147 (at least two feet if no depth number is specified).

(4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

§ 375-172 NON-RESIDENTIAL STRUCTURES.

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures located in areas of special flood hazard, in addition to the requirements in Section 165, SUBDIVISION PROPOSAL, Section 375-166, ENCROACHMENTS, and Section 375-167, STANDARDS FOR ALL STRUCTURES.

(1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure shall either:

(i) have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or

(ii) be floodproofed so that the structure is watertight below two feet above the base flood elevation, including attendant utility and sanitary facilities, with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(2) Within Zone AO, new construction and substantial improvements of non-residential structures shall:

(i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or

(ii) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in paragraph (1)(ii) above.

(3) If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of paragraph (1)(ii) above, including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.

(4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

(5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

§ 375-173 MANUFACTURED HOMES AND RECREATIONAL VEHICLES.

The following standards in addition to the standards in Section 375-164, GENERAL STANDARDS, and Section 375-167, STANDARDS FOR ALL STRUCTURES apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

(1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:

(i) be on site fewer than 180 consecutive days,

(ii) be fully licensed and ready for highway use, or

(iii) meet the requirements for manufactured homes in paragraphs (2), (3) and (4) below.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

(2) A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(3) Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.

(4) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in Section 375-147 (at least two feet if no depth number is specified).

§ 375-174 CRITICAL FACILITIES.

In order to prevent potential flood damages to certain facilities that would result in serious danger to life and health, or widespread social or economic dislocation, no new critical facility shall be located within any Area of Special Flood Hazard, or within any 500-year flood zone shown as a B zone or as a Shaded X zone on the Community's Flood Insurance Rate Maps.

§ 375-175 VARIANCE PROCEDURE; APPEALS BOARD.

(1) The Board of Zoning Appeals as established by the City of Albany. County of Albany shall hear and decide appeals and requests for variances from the requirements of this local law.

(2) The Board of Zoning Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.

(3) Those aggrieved by the decision of the Board of Zoning Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

(4) In passing upon such applications, the Board of Zoning Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:

(i) The danger that materials may be swept onto other lands to the injury of others;

(ii) The danger to life and property due to flooding or erosion damage;

(iii) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(iv) The importance of the services provided by the proposed facility to the community;

(v) The necessity to the facility of a waterfront location, where applicable;

(vi) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

- (vii) The compatibility of the proposed use with existing and anticipated development;
 - (viii) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - (ix) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (xi) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (xii) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of paragraph (4) above and the purposes of this local law, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

§ 375-176 CONDITIONS FOR VARIANCES.

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 375-175(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
- (i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure"; and
 - (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
- (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met; and
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
- (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:
- (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 - (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required in Section 375-163 of this local law.

Section 2. This local law shall take effect upon final passage, public hearing and filing with the Secretary of State.

Council Member Applrys moved to amend LOCAL LAW B-2015 and, as amended, requested it remain held.

A LOCAL LAW AMENDING CHAPTER 34 (RECORDING OF MEETINGS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO A HEALTHY MEETINGS POLICY

BE IT ENACTED by the Common Council of the City of Albany as follows:

Section 1. Chapter 34 entitled “Recording of Meetings” is hereby amended to read as follows:

**CHAPTER 34
RECORDING OF MEETINGS**

Section 34-1. Meetings of Boards, Commissions, Committees.

Meetings of all public bodies subject to the NYS Public Officers Law, Article 7 (commonly referred to as the “Open Meetings Law”) shall be recorded, except those portions of a meeting where the body validly enters into executive session. The audio recording shall be made available to the public and shall be digitally preserved for a minimum of five years.

Section 34-2. Healthy meetings.

A. The Dietary Guidelines for Americans, 2010 state that Americans consume too much sodium, added sugars, refined grains, and solid fats and not enough fruits, vegetables, and whole grains. Studies show a strong relationship between the physical and social environments of the workplace and the health behaviors of employees and nearly half of many people's waking hours are spent at work, and many of those hours are spent in meetings and conferences. The foods and beverages available at meetings and conferences are often high in fat, added sugars, and sodium, and contain few fruits, vegetables, and whole grains. In addition, meetings and conferences generally involve a lot of time sitting and provide little opportunity for physical activity. The City of Albany has the ability to model healthy eating and help to change social norms around meeting practices and it is consistent with the goals of the City to support people's ability to eat well while at work events.

B. All City of Albany meetings, conferences, and events will adhere to healthy meeting guidelines, including departmental meetings, and the City of Albany hereby adheres to the National Alliance for Nutrition and Activity Healthy Meeting Pledge. The City of Albany strongly encourages other City-related agencies to adopt healthy meeting guidelines.

C. All activities and special events sponsored by or supported by the City of Albany will include healthy food and beverage options when food is served and will encourage physical activity, greener options, and support of local products. The City will adopt a Healthy Meetings and Special Events policy.

Section 2. This local law shall take effect upon final passage, public hearing and filing with the Secretary of State.

Council Member Bailey asked for passage of LOCAL LAW F-2014 (As Amended) (A LOCAL LAW ESTABLISHING A RESIDENCY REQUIREMENT FOR ALL CITY EMPLOYEES), which had been previously introduced.

**Note: Council Member Bailey and President McLaughlin spoke on this local law prior to passage.*

The local law passed by the following voice vote of all the Council Members elected voting in favor thereof:

Affirmative – Applyrs, Bailey, Commisso, Conti, Doesschate, Fahey, Flynn, Golby, Herring, Igoe, Kimbrough, Krasher, O'Brien and Robinson

Affirmative 14 Negative 0 Abstain 0

Local Law F-2014 (As Amended) was co-sponsored by Council Member Applyrs, Commisso, Conti, Doesschate, Fahey, Flynn, Golby, Herring, Igoe, Kimbrough, Kornegay, Krasher, O'Brien and Robinson.

The local laws on the pending agenda remained held at the request of President Pro Tempore Conti.

REPORTS OF STANDING COMMITTEES

Law, Buildings and Code Enforcement – Chairperson Igoe stated that the committee met on February 3, 2015 to discuss Ordinance Number 3.11.15 in relation to outdoor cafes, which was held for further discussion and Ordinance Number 39.64.14 in relation to Vacant Building Registry fees and rehabilitation plans, which was also held.

General Services, Health and Environment – Chairperson O'Brien stated that the committee met to discuss Local Law B-2015 in relation to Healthy Meetings, which had one amendment and was referred favorably out of committee. The committee discussed Local Law D-2015, in relation to flood control and flood damage, with the Water Department, which was reported out of committee with a favorable recommendation.

Public Safety – Chairperson Golby stated that the committee met on January 23, 2015 to interview candidates for the Citizens' Police Review Board and selected Mr. Charles Goodbee. The committee is looking to set a date to discuss Ordinance Number 51.121.14 in relation to yellow light duration under the red light camera program.

CONSIDERATION OF ORDINANCES

Council Member Applrys introduced ORDINANCE NUMBER 7.21.15, which was referred to the Law, Buildings and Code Enforcement Committee.

AN ORDINANCE AMENDING SECTION 251-9 (B) OF CHAPTER 251 (PARKS AND RECREATION) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO SMOKING AT THE CAPITAL HILLS AT ALBANY GOLF COURSE

The City of Albany, in Common Council convened, does hereby ordain and enact:

Section 1. Section 251-9(B) of Chapter 251 of the Code of the City of Albany is hereby amended to read as follows:

§251-9 Smoking in City Parks and Recreational Areas.

B. No person shall smoke within the City's parks, sport fields, swimming pools, or playgrounds, excluding the Capital Hills at Albany Golf Course. For purposes of this section, to "smoke" means to burn a lighted cigar, cigarette, or pipe, or to use any other substance which contains tobacco.

Section 2. This ordinance shall take effect immediately.

Council Member Bailey introduced ORDINANCE NUMBER 8.21.15, which was referred to the Planning, Economic Development and Land Use Committee.

AN ORDINANCE AMENDING CHAPTER 375 (ZONING) OF THE CODE OF THE CITY OF ALBANY BY ADDING A NEW ARTICLE XX REGARDING SMALL SCALE ZONING OVERLAYS

The City of Albany, in Common Council convened, does hereby ordain and enact:

Section 1. Chapter 375 of the Code of the City of Albany and the Official Zoning Map are hereby amended by adding a new Article XX to be entitled "Small Scale Zoning Overlay".

ARTICLE XX

Small Scale Zoning Overlay

§ 375-193 Purpose and intent.

The Common Council finds and determines that as the City of Albany embarks on a major initiative to examine, update and overhaul the zoning across the entire City, development, where appropriate, should be allowed to proceed. This may require minor changes to the existing zoning, provided that the changes are consistent with the goals of the rezoning initiative, Albany 2030 and other relevant plans. Small-scale zoning overlays are an effective tool for interim changes during the overall rezoning process. Such small-scale zoning overlays will allow for targeted areas to be studied in a reasonable time frame, and ensure that changes to an existing zone do not have unintended consequence in other areas where the same zoning designation is present. It is intended that these small-scale zoning overlays will be integrated into the changes of the overall rezoning initiative and that the overlays will then be dissolved.

§ 375-194 Commercial Office Residential Overlay.

A. Purpose

The Commercial Office Residential Overlay is intended to provide for additional use options within a small-targeted area of the Commercial Office District (CO), adjacent to the Central Business District (C-3). It has been determined that allowing for residential development, redevelopment, or the adaptive re-use of existing office buildings for residential and other mixed uses will have a positive effect on both the economics and safety of this targeted area. By allowing for uses beyond the traditional office use, which typically operate within a 9AM to 5PM, Monday through Friday time frame, the introduction of a residential component will make the area safer by ensuring an active use beyond such a weekday time frame. The additional residential population will also benefit other uses in the area such as restaurants and retail establishments.

B. Zoning Boundaries

The boundaries of the Commercial Office Residential Overlay zone shall be as follows: To the north, by the Empire State Plaza property; to the south by Eagle Street; to the east by State Street; and to the west by Lancaster Street.

C. Applicability

All regulation of the underlying zone, Commercial Office District (C-0), shall apply to the Commercial Office Residential Overlay, unless otherwise specified within this Section.

D. Principal permitted uses shall be as follows:

- (1) All principal permitted uses within the underlying Commercial Office District (CO).
- (2) Apartment buildings.
- (3) Art galleries.
- (4) Bakeries, not to exceed 5,000 square feet.
- (5) Charitable or religious institutions.
- (6) Cultural entertainment facilities.
- (7) Dance schools.

- (8) Department stores.
- (9) Flower shops.
- (10) Furniture stores.
- (11) Health club.
- (12) Hotels and motels.
- (13) Museums.
- (14) Residential uses, the minimum size of a dwelling unit shall be 600 square feet.
- (15) Restaurants.
- (16) Restaurants serving alcohol.
- (17) Taverns.
- (18) Theaters.

E. Accessory uses shall be as follows:

- (1) All accessory uses within the underlying Commercial Office (CO) District.

F. Special permit shall be as follows:

- (1) All special permit uses within the underlying Commercial Office (CO) District.

G. Yard regulations shall be as follows:

- (1) Minimum total lot area: 3,200 square feet.
- (2) Minimum lot width: 40 feet.
- (3) Minimum lot depth: 80 feet.
- (4) Minimum front yard setback: none.
- (5) Minimum side yard: none.
- (6) Minimum rear yard: none.
- (7) Maximum building height: 85 feet.
- (8) Maximum lot coverage: 100%.

H. Off-street parking and loading requirements shall be the same as indicated in Article XIX, except as follows:

- (1) All permitted and required accessory off-street parking spaces, open or enclosed, shall be located within a radius of no greater distance than 1,000 feet from the zoned parcel that it is accessory to. Such off site spaces may be under the same ownership or provided through long-term lease agreements. All uses for which off-site leased parking is required to be provided for, shall stipulate within a recorded deed that such spaces must be assigned and provided for throughout the life of such use.

Section 2. The Council finds and declares that this action is an “Unlisted” action under Article 8 of the Environmental Conservation Law and the regulations promulgated thereunder (SEQRA), and directs that coordinated review be conducted for the determination and establishment of Lead Agency.

Section 3. This ordinance shall take effect immediately.

Council Member Krasher introduced ORDINANCE NUMBER 9.21.15, which was referred to the Planning, Economic Development and Land Use Committee.

AN ORDINANCE AMENDING PART 25 (INDUSTRIAL DEVELOPMENT AGENCY) OF CHAPTER 42 (DEPARTMENTS AND COMMISSIONS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO THE CREATION OF AN IDA/CRC CITIZEN OVERSIGHT COMMITTEE

The City of Albany, in Common Council convened, does hereby ordain and enact:

Section 1. Part 25, Article XXXVI of Chapter 42 of the Code of the City of Albany shall be amended to read as follows:

§ 42-289 Industrial Development Agency/Capital Resource Corporation Citizen Oversight Committee.

A. Industrial Development Agencies (IDAs) are an important economic development tool to promote job creation and retention and are the main source of economic development subsidies at the local and county level. The City of Albany Common Council approved the creation of the Capital Resource Corporation (CRC) by the Industrial Development Agency pursuant to state law to authorize funding of projects by not-for-profit entities. Absent additional state authorization, the City has no other mechanism to fund economic development. When IDAs do not use tax payer dollars effectively they fail to provide a good return on public investment. As the IDA operates largely outside of the public purview, it is necessary to establish a Citizen Oversight Committee to monitor and review the actions of the IDA and CRC to assist the Common Council in monitoring the use of taxpayer dollars and to help the public better understand how public moneys are being used.

B. There is hereby established an IDA/CRC Oversight Committee comprised of seven members appointed by the Common Council. Members shall be appointed for three-year terms; provided, however, that: of members initially appointed two shall be for a term of one year, two shall be for a term of two years, and three shall be for a term of three years. Members may not serve more than two consecutive terms. Members shall continue to serve until their successors have been appointed. Annually, from among its membership, the Commission shall elect a Chair.

C. Members shall be residents of the City of Albany for at least one year prior to appointment and demonstrate a proficiency and understanding of economic development. At least one member must be a representative of the labor community and at least two members must have a background in finance, economics, accounting, or a related field. The Common Council shall reflect community and geographic diversity in their appointments. Officers and employees of the City of Albany shall not be eligible for appointment.

§ 42-290 Powers and Duties.

A. The Committee shall report every three months to the Common Council within 120 days after all appointments of members have been made. The Committee shall have the power to request documents, conduct public hearings, hear testimony of witnesses, and take any other action it deems necessary to carry out its functions. Every department, office, division, agency or public authority of this City shall cooperate to the full extent possible with the Committee and furnish such information and assistance as the Committee determines is reasonably necessary to accomplish its purpose in a timely fashion.

B Reports of the Committee shall provide findings with regard to the following topics:

- (1) The applications approved for the previous three month period outlining the assistance requested, the assistance granted, the number of jobs promised and the pay rate for jobs created, whether or not the project had any impact on the City of Albany school district a listing of all potentially taxable facilities incidental to an application from a not-for-profit organization, and whether any proportional distribution of PILOT payments were considered, and whether any other IDA benefits were realistically available for the project applicant.
- (2) A summary of the applications disapproved and the reasoning for the disapproval;
- (3) Once a year, the report shall include a review of the IDA tax exemption policy and any recommendations for change;
- (4) An ongoing review of IDA/CRC tax exemptions granted since 2010 including the value of the exemptions granted, the annual profit of the entity applying for the exemption, the number of jobs created per year and the average salary, and an estimate of the number of City of Albany residents employed;
- (5) Any IDA/CRC related issues may be reviewed and recommendations made to the Common Council.

Section 2. This ordinance shall take effect immediately.

Council Member Krasher moved to amend ORDINANCE NUMBER 51.121.14 and requested it remain held.

AN ORDINANCE AMENDING ARTICLE XIV (TRAFFIC-CONTROL SIGNAL PHOTO VIOLATION-MONITORING SYSTEM) OF CHAPTER 359 (VEHICLES AND TRAFFIC) OF THE CODE OF THE CITY OF ALBANY

The City of Albany, in Common Council convened, does hereby ordain and enact:

Section 1. Section 359-138 of Article XIV of Chapter 359 is hereby amended by adding a new Subsection W as follows:

W. Wherever a traffic-control signal photo violation-monitoring device is installed, a four second yellow signal shall be mandatory at that intersection. Each such intersection shall be monitored on a monthly basis to confirm that the signal is not malfunctioning and that the yellow light remains at four seconds. No warning letters or citations should be issued until it is determined that the system is working accurately and reliability.

Section 2. Section 359-138 of Article XIV of Chapter 359 is hereby amended by adding a new Subsection X as follows:

X. Safety standards should be addressed in any contract for installation of traffic-control signal photo violation monitoring devices. Continual analysis of violation and crash data should be undertaken twice per year to assess the effectiveness of the program and locations where the cameras are installed. This analysis should be made publicly available for community input.

Section 3. Section 359-138 of Article XIV of Chapter 359 is hereby amended by adding a new Subsection Y as follows:

Y. Education on improving traffic safety is a crucial component for any significant change to occur with traffic control systems. The Mayor shall implement a program which includes issuance of warning citations to likely violators for a limited period, and clear public communication of the date on which warning citations will be halted and actual enforcement citations will begin.

Section 4. This ordinance shall take effect immediately.

The remaining ordinances on the agenda were held at the request of President Pro Tempore Conti.

CONSIDERATION OF RESOLUTIONS

Council Member Krasher introduced RESOLUTION NUMBER 6.12.15R, which was referred to the Human Resources and Human Rights Committee.

RESOLUTION OF THE COMMON COUNCIL CALLING FOR A MORATORIUM ON THE IMPLEMENTATION OF BIOMETRIC TIMEKEEPING WITHIN THE CITY OF ALBANY WORKFORCE

WHEREAS, biometrics utilizes the unique identifying qualities associated with faces, fingers, hands, eyes and other body parts to recognize employees. There is legitimate criticism that the use of biometrics is degrading, intrusive and unnecessary as a timekeeping method. There is also concern that biometrics could be expanded to keep tabs on all elements of the employee workday. Many of the new systems are unproven and poorly designed software that may cheat employees out of pay and accrued time; and

WHEREAS, these systems raise concerns as to where the fingerprint data will be kept, how safe it will be, and how it will be used; and

WHEREAS, a portion of the money to be received from the State Financial Restructuring Board has been earmarked to buy a new biometric timekeeping system to record the time of city employees; and

WHEREAS, the City's timekeeping system is antiquated and consists largely of handwritten time records administered by a payroll office issuing a weekly payroll; and

WHEREAS, the system does need to be modernized and electronic timekeeping should be the norm to increase efficiency. However, biometric timekeeping raises significant privacy issues and it is unclear if this is the most cost-effective way of improving the system considering the expense and little experience in municipal environments.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Albany urges a moratorium on the purchase of a biometric timekeeping system for the City of Albany workforce until such time as the efficacy of these systems can be better understood, privacy issues can be discussed with affected parties, and a cost comparison can be made with other methods to update the employee timekeeping system.

Council Member Bailey introduced RESOLUTION NUMBER 7.21.5R, asked for passage and a roll call vote thereon:

RESOLUTION OF THE COMMON COUNCIL DECLARING ITSELF LEAD AGENCY FOR PURPOSES OF DETERMINING ENVIRONMENTAL SIGNIFICANCE IN ACCORDANCE WITH ARTICLE 8 OF THE ENVIRONMENTAL CONSERVATION LAW (SEQRA), AND ITS IMPLEMENTING REGULATIONS REGARDING THE CREATION OF AN OVERLAY DISTRICT TO BE KNOWN AS THE COMMERCIAL OFFICE RESIDENTIAL OVERLAY DISTRICT

WHEREAS, Ordinance 8.21.15R was introduced by the City of Albany Common Council on February 2, 2015, which proposes to create an overlay district within the City of Albany; and

WHEREAS, Ordinance 8.21.15R proposes to create a small scale zoning overlay known as the Commercial Office Residential Overlay which is intended to provide for additional use options within a small, targeted area of the Commercial Office District (CO) zone; and

WHEREAS, the City of Albany has prepared a Full Environmental Assessment Form (FEAF), in conjunction with said proposed overlay zoning; and

WHEREAS, the action is preliminarily classified as a Type 1 Action and is subject to the provisions of the State Environmental Quality Review Act ("SEQRA"), as set forth in Environmental Conservation law Article 8, and its implementing regulations; and

WHEREAS, the Common Council is the sole involved agency and, as such, is the appropriate Lead Agency to conduct a review of the plan in accord with SEQRA regulations.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Albany shall coordinate review of the proposed creation of a small scale zoning overlay known as the Commercial Office Residential Overlay and hereby declares itself Lead Agency pursuant to and under SEQRA;

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

RESOLVED, that the City Clerk is directed to give notice of the Common Council's declaration to act as SEQRA lead agency to all involved agencies.

The resolution passed by the following voice vote of all the Council Members elected voting in favor thereof:

Affirmative – Applyrs, Bailey, Commisso, Conti, Doesschate, Fahey, Flynn, Golby, Herring, Igoe, Kimbrough, Krasher, O'Brien and Robinson

Affirmative 14 Negative 0 Abstain 0

Council Member Bailey introduced RESOLUTION NUMBER 8.21.5R, asked for passage and a roll call vote thereon:

AUTHORIZING THE IMPLEMENTATION, AND FUNDING IN THE FIRST INSTANCE 100% OF THE FEDERAL-AID AND STATE “MARCHISELLI” PROGRAM-AID ELIGIBLE COSTS, OF A TRANSPORTATION FEDERAL-AID PROJECT, AND APPROPRIATING FUNDS THEREFORE (SHERIDAN HOLLOW SIDEWALK IMPROVEMENTS [P.I.N. 1757.95])

WHEREAS, a Project for the Sheridan Hollow Sidewalk Improvements P.I.N. 1757.95 (“the Project”) is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs of such program to be borne at the ratio of 80% Federal funds and 20% non-federal funds; and

WHEREAS, the City of Albany desires to advance the Project by making a commitment of 100% of the non-federal share of the cost of Preliminary Design Phases I-VI.

NOW, THEREFORE, the Common Council, duly convened does hereby

RESOLVE, that the Common Council hereby approves the above-subject project; and it is hereby further

RESOLVED, that the Common Council hereby authorizes the City of Albany to pay in the first instance 100% of the federal and non-federal share of the cost of Design work for the Project or portions thereof; and it is further

RESOLVED, that the sum of \$78,923.00 had been already appropriated pursuant to Ordinance No. 18.22.13 and made available to cover the cost of participation in the above phases of the Project; and it is further

RESOLVED, that the additional sum of \$498,950.00 will be appropriated pursuant to Ordinance Nos. 3.31.14 and 8.41.14 and made available to cover the cost of participation in the above phases of the Project; and it is further

RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the Common Council of the City of Albany shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof; and it is further

RESOLVED, that the Mayor of the City of Albany be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or Marchiselli Aid on behalf of the City of Albany with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality’s first instance funding of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefor that are not so eligible; and it is further

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project; and it is further

RESOLVED, this Resolution shall take effect immediately.

The resolution passed by the following voice vote of all the Council Members elected voting in favor thereof:

Affirmative – Applrys, Bailey, Commisso, Conti, Doesschate, Fahey, Flynn, Golby, Herring, Igoe, Kimbrough, Krasher, O’Brien and Robinson

Affirmative 14 Negative 0 Abstain 0

The remaining resolutions on the agenda were held at the request of President Pro Tempore Conti.

MISCELLANEOUS AND UNFINISHED BUSINESS

NONE

ADJOURNMENT

There being no further business, Council President Pro Tempore Conti made a motion to adjourn, Council President McLaughlin stated hearing no objections, that the Council was adjourned.

A true record of the Common Council Minutes of February 11th, 2015.

CASHAWNA PARKER
SENIOR LEGISLATIVE AIDE TO THE
COMMON COUNCIL